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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
08/706,217	08/30/96	BERG	R 29615/DAF/B4

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IM41/0701

EXAMINER
WONG, E

ART UNIT	PAPER NUMBER
1741	13

DATE MAILED: 07/01/98

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
08/706,217

Applicant(s)
Berg et al.

Examiner
Edna Wong

Group Art Unit
1741



☒ Responsive to communication(s) filed on Amendment dated 5/26/98 and Supplemental Response dated 6/19/98.

☒ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire THREE month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 11-35 and 37-44 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☒ Claim(s) 12-19, 32-35, and 37-44 is/are allowed.

☒ Claim(s) 11, 20, 22, and 26-29 is/are rejected.

☒ Claim(s) 21, 23-25, 30, and 31 is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
☐ received.

☐ received in Application No. (Series Code/Serial Number) _____.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____.

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☐ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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This is in response to the Amendment dated May 26, 1998 and Supplemental Response dated June 19, 1998. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Rejections - 35 USC § 103

Claims **11, 20, 22 and 26- 29** are rejected under 35 U.S.C. 103(a) as being unpatentable over **DE 4,318,885** in light of **Webster's II New Riverside University Dictionary**.

The DE reference and Webster's II New Riverside University Dictionary are as applied in the Office Action dated February 19, 1998 and incorporated herein.

The DE reference does not teach spraying a passive aerosol.

However, the invention as a whole would have been obvious to one having ordinary skill in the art at the time the invention was made because since the DE reference does not appear to disclose spraying a passive aerosol or lack thereof, it would have been obvious to one having ordinary skill in the art to at the time the invention was made that the DE reference would have been spraying a passive aerosol because the DE reference does not teach towards or away from spraying a passive aerosol leaving one skilled in the art to expect that a passive aerosol is sprayed in the

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method of the DE reference because spraying the aerosol with a force to redistribute the particles back into the air would contaminate the skilled artisan as the force of the spray would determine the success of capturing the particles, absent evidence to the contrary.

Allowable Subject Matter

Claims **12-15** define over the prior art of record because the prior art does not teach or suggest the method of claim 11 wherein the step of generating an aerosol further comprises the step of subjecting the capture liquid to ultrasonic waves.

Claims **16-19** define over the prior art of record because the prior art does not teach or suggest the method of claim 11 further comprising the step of venting a portion of the aerosol from the process area.

Claim **21** defines over the prior art of record because the prior art does not teach or suggest the method of claim 20 further comprising the step of removing the encapsulated particulates from the surfaces of the process area.

Claim **23** defines over the prior art of record because the prior art does not teach or suggest the method of claim 20 further comprising the step of scraping the encapsulated particulates from the surfaces of the process area.

Claim **24** defines over the prior art of record because the prior art does not teach or suggest the method of claim 11 further comprising the step of wiping the

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encapsulated particulates from the surfaces of the process area.

Claim **25** defines over the prior art of record because the prior art does not teach or suggest the method of claim 11 further comprising the step of selecting a capture liquid that hardens to the surfaces of the process area by oxidation.

Claim **30** defines over the prior art of record because the prior art does not teach or suggest the method of claim 11 further comprising the step of heating the capture liquid.

Claim **31** defines over the prior art of record because the prior art does not teach or suggest the method of claim 11 further comprising the step of coating the surfaces of the process area with a resinous material after the particulates have been encapsulated and adhered to the surfaces of the process area.

Claims **32-35 and 37-44** define over the prior art of record because the prior art does not teach or suggest a method for removing hazardous particles from a space enclosed by walls comprising the step of subjecting the liquid to ultrasonic waves to form an atomized liquid.

The prior art of record does not contain any language that says the above. Therefore, a person skilled in the art would not be motivated to adopt the above conditions.

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Response to Amendment

Election/Restriction

Applicant's election without traverse of Group II in Paper No. 11 is acknowledged.

The requirement is still deemed proper and is therefore made **FINAL**.

Specification

The disclosure has been objected to because of minor informalities.

The objection to the disclosure has been withdrawn in view of Applicants' amendment

Claim Objections

Claims **12 and 29** have been objected to because of minor informalities.

The objection to the claims has been withdrawn in view of Applicants' amendment.

Claim Rejections - 35 USC § 112

Claims **11-44** have been rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

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The rejection under 35 U.S.C. 112, second paragraph, has been withdrawn in view of Applicants' amendment.

Claim Rejections - 35 USC § 102

Claims **11, 20, 22, 26- 27 and 29** are rejected under 35 U.S.C. 102(b) as being anticipated by **DE 4,318,885** in light of **Webster's II New Riverside University Dictionary**.

The rejection under 35 U.S.C. 102(b) as being anticipated by DE 4,318,885 in light of Webster's II New Riverside University Dictionary has been withdrawn in view of Applicants' amendment.

Claim Rejections - 35 USC § 102/103

Claims **32-33, 35 and 39** are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over **DE 4,318,885** in light of **Webster's II New Riverside University Dictionary**.

The rejection under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over DE 4,318,885 in light of Webster's II New Riverside University Dictionary has been withdrawn in view of Applicants' amendment.

Applicant's amendment necessitated the new ground(s) of rejection presented in

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this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Edna Wong whose telephone number is (703) 308-3818.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kathryn Gorgos, can be reached on (703) 308-3328. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-3599.


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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.


KATHRYN L. GORGOS
SUPERVISORY PATENT EXAMINER
GROUP 1100


June 26, 1998